

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MODIFIED PLAN FOR RANDOM JURY SELECTION

United States Courts
Judicial Council of the Eighth Circuit
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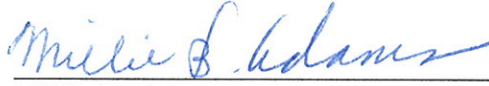
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EIGHTH CIRCUIT JUDICIAL COUNCIL

ORDER

I hereby certify that the Eighth Circuit Judicial Council has approved the Amended Plan for Random Jury Selection for the United States District Court, District of Nebraska, as adopted by the court on April 21, 2006.



Millie B. Adams
Circuit Executive

St. Louis, Missouri
May 31, 2006

cc: Judicial Council Members
Chief Judge Joseph F. Bataillon
Denise M. Lucks, Clerk of Court
Administrative Office

Approval was given by the Jury System Committee.

JCO 1826

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MODIFIED PLAN FOR RANDOM JURY SELECTION

Pursuant to the Jury Selection and Service Act of 1968, as amended (28 U.S.C. § 1861 et seq.), the following Modified Plan for Random Jury Selection is hereby adopted by this court, subject to the approval of the reviewing panel for the Eighth Circuit Court of Appeals, and to such rules and regulations as may be adopted by the Judicial Conference of the United States. When approved, this amended plan will supersede the jury plan now in effect in the District of Nebraska.

1. Declaration of Policy. It is the policy of the United States District Court for the District of Nebraska that all litigants within the district entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community wherein the court convenes. It is further the policy of the United States District Court for the District of Nebraska that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district and shall have an obligation to serve as jurors when summoned for that purpose.

2. Discrimination Prohibited. No citizen shall be excluded from service as a grand or petit juror in this district on account of race, color, religion, sex, national origin, or economic status.

3. Applicability of Plan. The United States District Court for the District of Nebraska devises and places into operation this written plan for random selection of grand and petit jurors to achieve the objectives of 28 U.S.C. §§ 1861 and 1862. Pursuant to 28 U.S.C. § 107, Nebraska constitutes one judicial district, and court is held at Lincoln, North Platte and Omaha. For purposes of jury

selection, a separate divisional master wheel shall be maintained for each place of holding court. This plan applies to the three divisional master wheels, which comprise the master wheel for the district.

4. Management. The clerk of the court shall manage the jury selection process, subject, however, to the supervision and control of the chief judge of the district. The chief judge may authorize non-court personnel to assist the clerk in the performance of the clerk's functions under this plan.

5. Source of Names. The voter registration lists, as compiled by all counties in the State of Nebraska or by the State of Nebraska, and the lists of licensed motor vehicle operators eighteen years of age or older for all counties in the State of Nebraska, as compiled by said counties or by the State of Nebraska, shall be the source of names of prospective grand and petit jurors for service in this district.

6. Procedures for Selection from Voter Registration and Motor Vehicle Operator Lists.

(a) Registration of voters and licensing of motor vehicle operators is uniformly required throughout the entire State of Nebraska. The election officials of the respective counties of the state have given assurance that databases in electronic media or in printed hard copy of the official list of persons registered to vote in each county in the most recent general election can be furnished to the clerk of this court; and the head of the Department of Motor Vehicles for the State of Nebraska has given assurance that databases in electronic media or in printed hard copy of the official list of persons eighteen years or older licensed to operate motor vehicles in each county can also be supplied to the clerk of this court. The clerk shall cause said databases to be merged and edited so that motor vehicle operators who are also registered voters are listed only once on the merged list.

(b) The selection of names from complete source list databases in electronic media for

the master jury wheels may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheels for the purpose of summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master wheels by data computer personnel must ensure that each county within the jury division is substantially proportionally represented in relation to the number of registered voters in accordance with 28 U.S.C. § 1863 (b)(3). The selection of names from the source list and the master wheels must also ensure that the mathematical odds of any single name being picked are substantially equal.

(c) In lieu of maintaining the complete voter registration and motor vehicle operator lists in the Office of the Clerk, the clerk shall maintain, as a part of the jury record, the clerk's written instructions to, and a certificate of compliance by, the computer operator who so makes the selection from the source list for the master jury wheels.

7. Master Wheels.

(a) A master wheel, the definition of which shall include any properly programmed electronic data processing system, tape, or device, shall be maintained for each of the three places of holding court in the district; namely, Omaha, Lincoln, and North Platte. Names from the following counties, randomly selected as provided in Paragraph 6 above, shall be placed in a master wheel for Omaha:

Antelope	Cuming	Holt	Sarpy
Boone	Dakota	Knox	Stanton
Boyd	Dixon	Madison	Thurston
Burt	Dodge	Nance	Washington
Cedar	Douglas	Pierce	Wayne
Colfax	Greeley	Platte	Wheeler

Names from the following counties, randomly selected as provided in Paragraph 6 above, shall be placed in a master wheel for Lincoln:

Adams	Hamilton	Merrick	Richardson
Butler	Harlan	Nemaha	Saline
Cass	Howard	Nuckolls	Saunders
Clay	Jefferson	Otoe	Seward
Fillmore	Johnson	Pawnee	Thayer
Franklin	Kearney	Phelps	Webster
Gage	Lancaster	Polk	York
Hall			

Names from the following counties, randomly selected as provided in Paragraph 6 above, shall be placed in a master wheel for North Platte:

Arthur	Dawes	Hayes	Morrill
Banner	Dawson	Hitchcock	Perkins
Blaine	Deuel	Hooker	Red Willow
Box Butte	Dundy	Keith	Rock
Brown	Frontier	Keya Paha	Scotts Bluff
Buffalo	Furnas	Kimball	Sheridan
Chase	Garden	Lincoln	Sherman
Cherry	Garfield	Logan	Sioux
Cheyenne	Gosper	Loup	Thomas
Custer	Grant	McPherson	Valley

All counties of the district and state are included in the foregoing listings.

(a) The minimum number of names to be placed initially in the master wheel for Omaha shall be at least ten thousand; for Lincoln at least five thousand; and for North Platte at least two thousand.

(b) The chief judge may order additional names to be placed in the respective master wheels from time to time as necessary.

(d) The master wheels shall be emptied and refilled no later than May following the year of the general election.

8. Drawing of Names from the Master Jury Wheels. Pursuant to 28 U.S.C. § 1878, the court is using a one-step procedure to qualify and summon jurors. From time to time as directed by the district court, the clerk shall publicly draw at random from the master jury wheels the names of as many persons as may be required for jury service. The clerk may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheels. Any list so prepared shall not be disclosed to any person except pursuant to this plan or pursuant to 28 U.S.C. § 1867 or 1868.

9. Master Jury Wheels - Selection, Completion of Juror Qualification Questionnaire and Summoning of Jury Panels.

(a) When the court orders a grand or petit jury to be drawn, the clerk, or at the option of the clerk, a commercial mailing service designated by the clerk, shall mail a juror qualification questionnaire and summons to the required number of jurors. The juror qualification questionnaire and summons shall be accompanied by instructions to fill out and return the questionnaire, duly signed and sworn, to the clerk by mail within ten days. If the person is unable to fill out the questionnaire, another shall do it for such person, and shall indicate that he or she has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a questionnaire, the clerk shall return the questionnaire with instructions to the person to make such additions or corrections as may be necessary and to return the questionnaire to the clerk within ten days. Any person who fails to return a completed juror qualification questionnaire, as instructed, may be summoned by the clerk forthwith to appear before the clerk to fill out a juror qualification questionnaire. A person summoned to appear because of failure to return a juror qualification questionnaire, as instructed, who personally appears and executes a juror qualification questionnaire before the clerk may, at the discretion of the district court, except where his or her prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under 28 U.S.C. § 1871. At the time of his or her appearance for jury service, any person may be required to fill out another juror qualification questionnaire in the

presence of the clerk or the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his or her responses to questions contained on the form. Any information thus acquired by the clerk may be noted on the juror qualification questionnaire and transmitted to the chief judge. The mailing service will be instructed that the questionnaire and summons forms shall not be exhibited to any person.

(b) Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his or her usual residence or business address. If such service is made personally, the juror qualification questionnaire and summons shall be delivered by the clerk, or the clerk's duly designated deputies, to the marshal who shall make such service. If such service is made by registered or certified mail, the juror qualification questionnaire and summons may be served by the marshal or by the clerk, or the clerk's duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee.

10. Assignment to Petit Jury Panels. Persons whose names are drawn from the master wheels, as directed in Paragraph 9 of this plan, for service as petit jurors at the place of holding court for which that wheel is maintained, shall be summoned, qualified and assigned for service at that city. However, if after summoning, it appears that the residence of any juror so drawn has changed to a county of the district designated for another place of holding court, the juror shall be excused and his or her name placed into the appropriate master wheel.

11. Grand Juries. When grand juries are required, the clerk shall order the drawing from the master wheel for each place of holding court a pro rata share of the total number of grand jurors needed to be qualified and summoned. Grand juror qualification questionnaires and summonses shall issue to said persons, and upon their appearance before the court, a drawing by lot from their number shall proceed until a total of 23 members are empaneled as provided by law. The names of those not empaneled shall be returned to the respective master wheels and there remain available for

subsequent jury drawings in accordance with this plan. Grand juries shall be empaneled only at Omaha unless otherwise ordered by the court, but they shall be drawn from the entire district.

12. Qualifications for Jury Service.

(a) The chief judge of the district court, or any other judge presiding over a jury trial, or the clerk under supervision of the court, shall determine solely on the basis of information provided on the juror qualification questionnaire and other competent evidence whether a person is disqualified, excluded, exempt, or excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification questionnaire and in the computer system. If a person did not appear in response to a summons, such fact shall be noted.

(b) In making such determination, the chief judge of the district court, or any such presiding judge, or the clerk under supervision of the court, shall deem any person qualified to serve on grand and petit juries in the district court unless he:

(1) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;

(2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(3) is unable to speak the English language;

(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(5) has a charge pending against him or her for the commission of, or has been convicted in a state or federal court of record of, a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

(c) Persons Exempted From Jury Service. Pursuant to the provisions of 28 U.S.C. § 1866(c), any prospective juror who has been summoned for jury service may be excluded from jury service on the ground that they are exempt:

(1) members in active service in the Armed Forces of the United States;

(2) members of the fire or police departments of any state, the District of Columbia, any territory or possession of the United States, or any subdivision of a state, the District of Columbia, or such territory or possession;

(3) public officers in the executive, legislative, or judicial branches of the government of the United States, or of any state, the District of Columbia, any territory or possession of the United States, or any subdivision of a state, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

(d) Persons Excluded From Jury Service. Pursuant to the provisions of 28 U.S.C. § 1866(c), any prospective juror who has been summoned for jury service may be excluded by the court upon the following grounds:

(1) that such person may be unable to render impartial jury service;

(2) that the service of such person as a juror would be likely disrupt the proceedings;

(3) that such person is peremptory challenged as provided by law;

(4) that such person should be excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or

(5) that the court has determined that the service of such person as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations.

(e) Persons Excused From Jury Service. Pursuant to 28 U.S.C. § 1863(b)(5), and by the adoption of this plan, it is hereby found that jury service by the following groups of persons and occupational classes of persons would entail undue hardship or extreme inconvenience to the members thereof, and that the excuse from jury service of such members will not be inconsistent with 28 U.S.C. §§ 1861 and 1862, and shall be granted upon individual request:

(1) persons over 70 years of age;

(2) persons who have served as a grand or petit juror in any court within two years of being summoned to service;

(3) volunteer safety personnel (For purposes of this subparagraph, the term “volunteer safety personnel” means individuals serving a public agency (as defined in § 1203 (6) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.)

(4) persons having active care and custody of a child or children under ten years of age whose health and/or safety would be jeopardized by their absence for jury service, or a person who is essential to the care of aged or infirm persons.

(f) Temporary Excuse for Jury Service. In addition to the members of classes or groups subject to excuse from jury service on request as herein above provided, any person summoned for jury service may be temporarily excused by a judge of the court, or by the clerk under supervision of the court, upon a showing of undue hardship or extreme inconvenience. At the conclusion of a juror’s temporary excuse period, such person either shall be summoned again for jury service or the name of such person shall be reinserted into the master jury wheel for possible resummoning.

(g) Whenever a person is disqualified, excused, exempt, or excluded from jury service, the clerk shall note in the space provided on the juror’s qualification questionnaire and in the computer system the specific reason thereof.

13. Public Announcement of the Place and Time of Automated Selection of Names.

(a) Drawing of names of prospective jurors by automated selection methods shall be made public. The location and approximate time of such drawings shall be announced in a public place such as the court’s bulletin board.

(b) The Office of the Clerk of the court shall retain and, when requested, provide public access to the following documents:

--the court’s “Modified Plan for Random Jury Selection;”

--a copy of the court's authorization and written instructions to the person or computer service organization which carries out the building of the master wheels, along with a certificate of compliance from said person or organization.

14. Disclosure of Names Drawn from Master Wheels.

(a) Names of prospective and sitting petit jurors shall not be disclosed to the public or media outside open court, except upon order of the court. A request for disclosure of petit juror names to the media or public must be made to the presiding judge.

(b) The names of grand jurors drawn from the master wheels shall not be disclosed to anyone other than the United States Attorney, except upon specific order of the court.

15. Nondisclosure of Records. The contents of records and papers used in connection with the jury selection process shall not be disclosed except as provided in this plan and by the provisions of 28 U.S.C. § 1867(f).

16. Maintenance of Records. All records and papers compiled and used in the jury selection process shall be maintained and filed by the clerk. Said records shall be preserved as required by 28 U.S.C. § 1868, and shall then be destroyed unless otherwise ordered by the court.

17. Unanticipated Shortage of Jurors. When there is an unanticipated shortage of available petit or grand jurors, the court may require the United States Marshal to summon a sufficient number of jurors selected at random from the voter registration lists, or other lists specified in the plan, in a manner ordered by the court pursuant to 28 U.S.C. § 1866(f).

18. Modification. This plan may be modified only in the manner provided for in 28 U.S.C. § 1863(a) and (c).

19. Effective Date. This plan is an amendment to the Modified Plan for Random Jury Selection as approved by the Judicial Council of the Eighth Circuit on June 4, 2003, and shall become effective upon its approval by the review panel of the Judicial Council of the Eighth Circuit.

Dated this 5th day of May, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", with a stylized flourish at the end.

Joseph F. Bataillon, Chief Judge
United States District Court